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WOODARD EXAMINER

ART UNIT	PAPER NUMBER
1303	25

DATE MAILED: 05/31/94

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 4-18-94 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), — days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892.        | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948.                   |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.             | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/>  |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-25 are pending in the application.  
Of the above, claims \_\_\_\_\_ are withdrawn from consideration.
2. ☐ Claims \_\_\_\_\_ have been cancelled.
3. ☐ Claims \_\_\_\_\_ are allowed.
4. ☒ Claims 1-25 are rejected.
5. ☐ Claims \_\_\_\_\_ are objected to.
6. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed on \_\_\_\_\_, has been ☐ approved. ☐ disapproved (see explanation).
12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received  
☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

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The terminal disclaimer filed on 4-18-94 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 4,822,398 has been reviewed and is NOT accepted for the following reason(s):

There is no documentary evidence of a chain of title from the original inventor(s) to the assignee, nor is it specified (by reel and frame number) where such documentary evidence is recorded in the Office. 37 CFR 3.73(b). ✓

There is no statement by the assignee specifying that the evidentiary documents have been reviewed and certifying that, to the best of the assignee's knowledge and belief, title is in the assignee seeking to take action. 37 CFR 3.73(b). /

Accordingly, claims 1-19 stand rejected under the judicially created doctrine of obviousness-type double patenting previously explained on pages 13 and 14 of the first Office action.

Applicant should note that a showing of common ownership is required with respect to U.S. Patent No. 4,957,531 and 4,909,824, both of which are relied upon in that rejection in addition to U.S. Patent No. 4,822,398. ✓

The following is a quotation of the first paragraph of 35 U.S.C. § 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C. § 112, first paragraph, as the specification, as originally filed, does not provide support for the invention as is now claimed in claims 17 and 20-25.

Claim 20 has no support for a "lengthwise" support for each ~~row~~ <sup>row</sup> of quench tubes. The supports extend across the length of the tubes. Claims 17, 20, 23 and 24 have no support for means for moving or changing the (flat) vertical position or surface of the quench tubes of a quench "section" to "a quench position" where they have the same contour as the sheet intended to be tempered. The flat sheet is either tempered in the flat condition as received, and thus there are no means as specified in claims 17 and 20, or the flat sheet is bent using the disclosed apparatus prior to tempering. The sheet must be received by the apparatus in a flat, heated condition for bending prior to tempering of the bent or "contoured" glass sheet in place, i.e. bending is essential for enabling tempering with the apparatus when the platens are in a deformed state. There is no

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enablement for a tempering apparatus which receives and tempers a bent or contoured glass sheet. Claims 21-25 have no support for an oven having a heating and bending section as claimed. The original disclosure merely describes a glass heating furnace for heating a glass sheet prior to being received by the bending and tempering apparatus of the present invention. Further, there is no enablement for bending a heated glass sheet with longitudinal rows of "mini-rolls". Note the original disclosure describes deformable platens formed from the quench tubes and the drive/idler wheels for engaging and indexing the heated, flat glass sheet into the bending and tempering apparatus, oscillating the glass sheet during the bending and subsequent tempering, and thereafter indexing the bent and tempered glass sheet out of the apparatus. The entire arrangement of quench tubes/wheels is necessary for bending as disclosed. Further, note there is no support for separate or distinct actuator means (i.e. claims 23 and 24) for the rows of "mini-rolls" (drive/idler wheels) and for the rows of quench tubes since these are a unit (i.e. platen) under the original disclosure. The quench tubes simply do not change to "a quench position" where they have the "same contour" as the glass sheet as previously discussed hereinabove. Lastly, note claims 21-25 are not enabled without upper and lower

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deformable platens for bending a heated glass sheet therebetween.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 21, 22 and 25 are rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103 as obvious over Owen for the reasons of record set forth in paper no. 20.

The reissue oath or declaration filed with this application is defective because it fails to contain a statement that the applicant believes the original patent to be wholly or partially inoperative or invalid, as required under 37 C.F.R.

§ 1.175(a)(1).

The reissue oath or declaration filed with this application is defective because it fails to particularly specify the errors relied upon, as required under 37 C.F.R. § 1.175(a)(5).

The reissue oath or declaration filed with this application is defective because it fails to particularly specify how the errors relied upon arose or occurred, as required under 37 C.F.R. § 1.175(a)(5).

Claims 1-25 are rejected as being based upon a defective reissue <sup>declaration</sup> under 35 U.S.C. § 251. See 37 C.F.R. § 1.175.

Every departure from the original patent represents an

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"error" in the original patent under 35 U.S.C. 251 and must be particularly and distinctly specified and supported in either the original or a supplemental oath or declaration under 37 CFR 1.175. Any subsequent changes in the specification or claims require an updated supplemental oath or declaration specifically directed to and supporting these changes. As set forth in the first Office action and the previous Office action, the reissue oath or declaration must particularly specify (1) the excess or insufficiency in the claims and (2) how the reissue overcomes the defect in the original patent, e.g. describe how the newly presented or amended claims differ from those of the original patent. The reissue declarations of record do not address, in the above manner, the changes to patent claims 1, 15 and 16, new claims 17, 18, 20, 23 and 24 as presented in the amendment filed 4-18-94 and new claims 21, 22 and 25 presented in the amendment filed 12-14-92. The reissue declarations of record do not point out very specifically what the defects are and how and when the errors arose, and how and when errors were discovered. For example, how and when the error at col. 1, line 57 was discovered is not address although how and when the error arose (i.e. printing errors) is addressed.

Further, as set forth in the first Office action, failure to

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omit a limitation is not "error", where the claims can only be enabled with the limitation present. The disclosed apparatus is for bending the flat glass sheet followed by tempering of the bent glass sheet. The sheet must be received by the apparatus in a flat, heated condition for bending by changing the contour of the platens prior to tempering of the bent glass sheet in place, i.e. bending is essential for enabling tempering of a bent glass sheet with the platens contoured according to the bending step. Claims directed to an invention different from that of the patent are not proper for the filing of a reissue application; see MPEP 1412.01 and 1450, and pages 15 and 16 of the first Office action. Claims 17-25 are not directed to the bending and tempering apparatus of the patent claims. Applicant is trying to now add different inventions to the patent by way of reissue which is totally inappropriate. These claims are rejected under 35 USC 251 as not being directed to error and not being for the invention in the original patent.

Note the declarations must provide the residence and post office address of each inventor.

Applicant's arguments filed 4-18-94 have been fully considered but they are not deemed to be persuasive.

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Applicant's arguments have been noted, however, the only way the disclosed apparatus could effect tempering without first bending the glass sheet would be to remain flat and temper a flat glass sheet. The disclosed apparatus cannot function to temper a bent glass sheet without first bending the glass sheet by changing the contour of the platens with the flat glass plate present between the platens prior to deformation or changing the contour of the platens. There is no disclosure or support for receiving a bent glass sheet by the apparatus for tempering. The original language at col. 2, lines 38-42, in no way supports applicant's arguments. The only way the "movable quench openings that move with the surfaces of the flat glass sheet" move is during deformation of the platens, i.e. the essential bending step. The platens<sup>(and quench openings)</sup> are stationary in the bending configuration during tempering of a bent glass sheet.

Applicant's breakdown of claims 17-25 is noted as not providing accurate claim limitations (e.g. claim 20, the claimed support is required to extend lengthwise) and insufficient support (e.g. actuator 16 has nothing to do with a lengthwise support). Further, note in claim 21 for example, an "oven having a heating section and a bending section adjacent the heating section" is clearly not the same as a separate heating furnace



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and a downstream, separate bending apparatus, and deformation of the platens (i.e. tubes and wheels) to bend the sheet in no way the same as using "mini-rolls" to bend the sheet.

Applicant's arguments that Owen does not disclose mini-rollers for conveying the glass sheet and means for changing the vertical position of the mini-rollers are belied by drive means 29 and cylinder.

Lastly, note claims 20-25 can not be used to provoke an interference with another patent because these claims are not supported by the original disclosure.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Woodard whose telephone number is (703) 308-2050.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist

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whose telephone number is (703) 308-0651.

*Joye Woodard*  
JOYE L. WOODARD  
PRIMARY EXAMINER  
ART UNIT 133  
5-27-94

J. Woodard;nrd  
May 23, 1994